

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 2:21-CR-35-2  
(Judge KleeH)

KATRINA ANN SEARS,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [ECF NO. 190],  
ACCEPTING GUILTY PLEA, AND ORDERING PREPARATION OF  
PRESENTENCE INVESTIGATION REPORT

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On April 1, 2022, the Defendant, Katrina Ann Sears ("Sears"), appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count One of the Indictment, charging her with Unlawful Distribution of a Firearm, in violation of 18 U.S.C. §§ 922(d)(1) and 924(a)(2).

This Court referred Sears' plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted. Sears stated that she understood that the magistrate judge is not a United States District Judge, and Sears consented to pleading before the magistrate judge.

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Based upon Sears' statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Sears was competent to enter a plea, that the plea was freely and voluntarily given, that she understood the charges against her and the consequences of her plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [ECF No. 190] finding a factual basis for the plea and recommending that this Court accept Sears' plea of guilty to Count One of the Indictment.

The magistrate judge **remanded** Sears to the custody of the United States Marshals Service. On April 20, 2022, the Court ordered that Sears shall be **released** to long-term treatment on April 22, 2022 [ECF No. 207].

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither Sears nor the Government filed objections to the R&R.

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Accordingly, this Court **ADOPTS** the magistrate judge's R&R [ECF No. 190], provisionally **ACCEPTS** Sears' guilty plea, and **ADJUDGES** her **GUILTY** of the crime charged in Count One of the Indictment.

Pursuant to Fed. R. Crim. P. 11(c) (3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Sears, and prepare a presentence investigation report for the Court;

2. The Government and Sears shall each provide their narrative descriptions of the offense to the Probation Officer by **April 29, 2022**;

3. The presentence investigation report shall be disclosed to Sears, her counsel, and the Government on or before **June 14, 2022**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e) (3);

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4. Counsel may file written objections to the presentence investigation report on or before **June 28, 2022**;

5. Responses to objections to the presentence investigation report shall be filed on or before **July 7, 2022**; and

6. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **July 21, 2022**.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: April 22, 2022



THOMAS S. KLEE, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA